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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE BOARD OF TRUSTEES, in their
capacities as Trustees of the CEMENT
MASONS HEALTH AND WELFARE TRUST
FUND FOR NORTHERN CALIFORNIA,
CEMENT MASONS PENSION TRUST FUND
FOR NORTHERN CALIFORNIA, CEMENT
MASONS VACATION/HOLIDAY TRUST
FUND FOR NORTHERN CALIFORNIA,
CEMENT MASONS APPRENTICESHIP AND
TRAINING TRUST FUND FOR NORTHERN
CALIFORNIA,

Plaintiffs,

v.

AAP CONCRETE, INC., A California
Corporation,

Respondent.

No. C 13-02639 MMC

**EX PARTE REQUEST TO CONTINUE
CASE MANAGEMENT
CONFERENCE; ~~PROPOSED~~ ORDER**

Pursuant to Civil Local Rule 7-10, Plaintiffs hereby request that the Case Management Conference scheduled for September 19, 2014 at 10:30 a.m. be continued for 60 days.

Plaintiffs filed their Complaint for Breach of Contract, Damages, Breach of Fiduciary Duty, and Audit on June 7, 2013. Defendant AAP CONCRETE, INC., a California Corporation (“Defendant”) was served with the Complaint via substituted service pursuant to Federal Rule of

Civil Procedure 4 on November 20, 2013 by leaving a copy of the complaint and summons during usual office hours at the office of Gregory Wade, the agent for service of process for Defendant listed with the California Secretary of State, and then mailing a copy of the complaint to Mr. Wade, agent for service for Defendant. A corrected proof of service with summons was filed with the Court on June 20, 2014.

On August 6, 2014, Mr. Wade filed a handwritten letter in this matter on behalf of Defendant (Document 28) in violation of Local Rule 3-9(b), which states that “[a] corporation, unincorporated association, partnership or other such entity may appear only through a member of the bar of this Court.” To date, Defendant has failed to answer or otherwise respond to the Complaint. The Clerk of the Court entered default against Defendant on September 2, 2014.

Plaintiffs respectfully request a 60-day continuance of the Case Management Conference in order to prepare and file a Motion for Default Judgment.

The above stated facts are set forth in the accompanying declaration of Kristina M. Zinnen in Support of Ex Parte Application to Continue Case Management Conference, filed herewith.

Dated: September 16, 2014


WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: /s/Kristina M. Zinnen
KRISTINA M. ZINNEN
Attorneys for Plaintiffs

~~PROPOSED~~ ORDER CONTINUING CASE MANAGEMENT CONFERENCE

Based upon the foregoing Ex Parte Request to Continue Case Management Conference, to November 14, 2014, the Court orders the continuance of the case management conference ~~for 60 days, or as soon thereafter as a court date is available.~~ In addition, the Court Orders: No later than November 7, 2014, plaintiffs shall file their motion for default judgment, or in the alternative, a statement setting forth the reason(s) why such motion is no longer appropriate.

Dated: September 16, 2014


The Honorable Maxine M. Chesney
United States District Court Judge